Nebraska Herald.

PLATTSMOUTH NEBRASKA.,

THURSDAY, MARCH 29, 1871.

THE IMPEACHMENT TRIAL

EVIDENCE IN THE BUTLER CASE

[Continued from last week.]

Monday, March 20.

The usual proclamation by the Sergt at-Arms was made.

Nelson C. Brock sworn:

Reside at Lincoln, is in the banking business, has been since June, 1868; was in partnership with J. Sweet and J. McConnell till May, 1870, since that time has been with James Sweet.

Made an arrangement with Governor Butler in *May*, 1869 to get money at Omaha; think it was about May 15th, that I had the first conversation; Gov. came to me and said he had some money at Omaha and wanted to know how to get the money and what interest we would allow him; I told him we would allow him 7 per cent. and that I would get it for him if he would give me a power of attorney; he said he would do it; he afterward gave me a power of attorney and I got the money; I gave the power of attorney to the National Bank at Omaha; cannot state what the contents of it was, think it was under seal; do not know how it was signed; he did not state to what fund it belonged: said he had the money; I brought the money here; cannot tell how much money I brought; think it was about $17,000; am under the impression that I used a part of the money before I returned; I brought the money here; arrived I think about 12 o'clock M; don't know what I did with the money; think I put it in the drawer; don't know when next I saw the Governor, or when I next conversed with him; my impression is that I had a conversation with him soon after, but couldn't say; he told me to issue him three certificates of deposit for $5,000 each, and place the balance to his account. On the 22d of *May* I filled out three certificates of deposit for $5,000 each and placed to his account on the books $1,466, and on the 25th day of *May* I cancelled these certificates and prepared three more to the same amount; the printed form of the certificates were the same and the wording was a little different.

Question—State whether the change was made by virtue of an understanding with the Governor. Objected to, and objection sustained by the Senate.

There was no arrangement made with the Governor; the change was made by us to save interest for three days; Gov. Butler made arrangements with the bank to overdraw his account and overdrew it to the amount of $16,000 or $17,000; the certificates were cancelled, the last three on the 12th of September, 1869; Governor Butler never told me from what source the money came; do not know whether Governor Butler loaned any of the money; he stated to me some time last summer that he had loaned his money out in Pawnee county and could not get it back; Governor Butler told me last September that he wanted to secure that school money, and wanted to give a mortgage on lands in Pawnee county, and he told me at one time he wanted to take it in small amounts on lots so that he could sell and take up the mortgage; he said that the hounds were after him and he had to fix it up; he did not say to what fund that money belonged; never had any conversation with the Governor by which I could know to what fund this money belonged; I never procured for the Governer any like sum at any other time at the First National Bank in Omaha.

TREASURER OF THE BOARD OF REGENTS

I spoke to the Governor several times about getting the appointment as Treasurer of the Board of Regents. A short time before the Board met, I told him I would give him $500, and afterwards raised it to $750, and he said that McConnell's time was not up, but that he might be induced to resign. I left with the impression that he would help me; afterwards learned that he was aiding McConnell.

THE TICHENOR LOAN.

Governor Butler came to the office to see me and talked about the Tichenor loan; I told him that Tichenor was a good fellow and that I thought he ought to have the money; he said he thought so too; this was probably in July 1870; I told Tichenor that he would have to get an order from the Governor and Auditor and abstract of title &c; all these papers were secured, the bonds and mortgages applications &c.; I had an order from Governor Butler, James Sweet and the Auditor, to loan Tichenor and his wife the 10,000; Governor Butler's name was signed to one order and Auditor Gillespie's was signed to another; the amount of the loan was $10,000; the security was the Tichenor House; I think it good security and think the property was worth from 5 to $10,000 more than the incumbrances; there was one mortgage before this of $4,000 and one of $1500; I should say that the value of the property was $25,000; I think the building was completed, but am not certain; it might be at the time the Omaha *Herald* was publishing that the Governor had got some money I had a conversation with the Governor, he did not say whether it was true or not; I had another conversation with the Governor; he told me not to admit that Tichenor had paid me anything; I told him he had fixed Tichenor up in a pretty way for the investigation; he said he had not seen Tichenor. After the investigation, and I had given some testimony, I had this conversation; I think he referred to some investigating committee.

Our bank books show that there was $10,000 credited to Tichenor; I was deputy State Treasurer at that time and was custodian of the Treasurer's books; there is an entry of the loan; the books show nothing in regard to the securities; the records filed show the bonds, mortgages and abstract, and the applications of the Governor and the Auditor, for the loan to Tichenor; the Governor said let Seth Robinson examine the papers: Governor Butler never said anything to me about examining the records of the loan since the loan was made; he has advised me not to show the records to any one during the political campaign, but I cannot state when he said so; he never stated why.

Question—What did you learn from the Governor as to his motives in requesting you to withhold the records? Objected to, and the objection sustained by the Senate.

He said to keep the records from the public at present, as the $17,000 was not on the books. The certificates of deposit were admitted.

These are the certificates I alluded to in my evidence.

Cross-examined—*Mr.* Sweet is my uncle, John Rix is a particular friend of mine; I met him in the banking house of James Sweet & Brock; is not a married man that I know of; Gov. Butler did not state to me from what source the $17,000; I knew it came from Washington; I cannot state when I first learned that it was school money; cannot fix the time within three months or within six months; I knew nothing about when he got it; it was none of my business; I went by way of Nebraska City; saw Sweet, and did not tell him my business; the power of attorney was under the seal of the State and I presume was countersigned by the Secretary of State; I got the money in currency; put it in my carpet-sack; if I paid a note there, I did not put that in; I cannot swear that I paid a note; I don't know whether I opened the carpet sack before I got to Lincoln; I put the carpet sack, I presume, in the vault, but I don't know; perhaps I saw the money that day next time and perhaps not; counted the money over again; McConnell was connected with the bank, and was perhaps then; think I put it in the safe; I presume I put he money in with the general funds in the Treasury; could not say whether I sent Gov. Butler a voucher or not, have no recollection of such a thing; cannot swear whether I did or did not; the books of Sweet & Brock are at the bank, the Treasurer's books are not.

I used the money after putting it in the general funds just as any other bankable money don't remember that I told John McConnell that I was going to Omaha to get the State funds, and that that with the receipts from the county Treasurers would make money easy and flush with the bank; cannot swear that I not; did not state to McConnell that this money would go to the common school fund; we had a private box in the safe where we kept the most of the State money; John Rix did not appear on the books at that time; before that time the State funds were not kept in anybody's name; I held some of the State funds in my own name, covered by certificates of deposit; I at that time did not have county school funds in my own name, but did afterwards; cannot tell how much I held of State funds in my own name; cannot say whether I had $50,000 or $60,000; the law was so that we had to keep the identical funds, and I issued certificates of deposit to myself to evade that law; the funds were kept in the name of John Rix for the same purpose.

Question—Who first suggested the name of John Rix to go on the books? Objected to, objection not sustained by the Senate.

Ans. It was never suggested; I made the entry myself; the other member of the firm never made an entry; I kept the books myself; never said to McConnell that Sweet was dissatisfied with the absence of the record of the $17,000; that if Sweet would stay at home and attend his own business, I would keep the books so that no d—d Legislature or investigating committee would be the wiser therefrom; the bank dealt in warrants; McConnell was not employed to buy warrants, but bought some; I have bought warrants at a discount; will not swear that I did not buy warrants when I had this money deposited in my name; don't know if I did whether it was at a discount or not; do not recollect saying to McConnell in the presence of Sweet, that he should do the trade in warrants; a small proportion of the State money was deposited in the bank of Sweet & Brock in the fore part of our term of office; had no conversation with the Governor and Attorney General Robinson discussing how the power of attorney should be drawn, as it was school money; I told Gere about the time Croxton was demanding to see the books, that we had no entry of the amount of 5 per cent funds; do not think I told him that Governor Butler must know the amount, because I had sent him a voucher or statement; cannot swear that Governor Butler consented to work for me for Treasurer of the Board of Regents, when I offered the bribe of $500 and $750; he said it would be no use, because McConnell would be re-elected; do not think it required check to offer to bribe a State officer.

Question—You had a conversation with the Governor about the Tichenor loan and you as deputy Treasurer agreed that as far as you or he were concerned you were ready to make the loan? Objected to, the objection being sustained by the Senate.

Applications for a loan were made to the Treasurer, in the absence of Sweet I did the business in these things; I may have said to Sweet that the Tichenor loan was all right and secured.

If I had issued the certificates to the Governor they would have been kept at the bank, and the officers of the bank might have seen them; an entry would have been made on the books; the bank was opened in June, 1868; I made a statement of the reception of the 5 per cent. fund which was published in the papers and signed it as deputy State Treasurer; I do not think any of the papers had it right; I think I made a memorandum statement to the Auditor, but do not think it was the same that appeared in the STATE JOURNAL September 23, 1870.

Re-examined—I made several statements in regard to this matter.

Question—With what object or intent did you make these different statements. Objected to. Objection overruled.

Answer—To help elect Governor Butler and to make the people understand that the money was paid into the Treasury; I think this was at the time they were after him, and I made it in his office; I cannot say what he said; it was to make them understand that it was paid in; the interest was reported paid, at the request of Beals and the Governor; Gov. Butler never made me any offer of pecuniary inducement to report this money paid in.

[The letter of the Governor to James Sweet, authorizing the loan of the $10,000 to Tichenor, was read. Also the application of Tichenor and wife. Also the letter of the Auditor, authorizing the loan.]

The money was loaned upon the authority of the letters of the Governor and Auditor; I think the outstanding indebtedness of the State was all taken up prior to the loan to Tichenor.

I refused for a while to testify before the Investigating Committee, because I received a telegram from Sweet to say nothing till he arrived.

The report upon the abstract of title to the Tichenor property was in the handwriting of the Attorney General; we were governed by his opinion in the matter of titles.

Tichenor didn't promise to pay me anything for getting the loan; I got about $650 for getting the loan; this went to my personal account; this money was taken from the deposit of John Rix; cannot fix the day or month in which I made these statements; had no conversation with Sweet about what I should testify to to day; talked with him some time; don't know that he talked about the matter to me.

By Hascall—State what Governor Butler said in reply to your offer of $500 or $750, that made the impression upon your mind that the Governor consented to it.

He said that he did not know whether McConnell would not resign.

By Redick—Was Governor Butler present at the time you made out your statement published? Ans.—He was.

By Tucker—Did James Sweet ever find fault with the name of John Rix on the books? Ans.—No.

By the same—Was the $17,000 put with the other school money? Ans.—No.

By Thomas—State whom you sent for the certificates when the Governor had overdrawn his amount? Ans.—I think I sent my brother.

By the same—What did the Governor say about it? Ans.—I had no conversation with him on the subject.

By Redick—I did not say to McConnell that the certificates were dated back; we paid no interest on the $17,000 to the loan.

By Kennedy—We put the money in the same place where our banking money was kept.

By Cunningham—I never charged the State anything for the collection of the money.

By Estabrook—Our books show that I credited myself with $33.75 with expenses to Omaha to collect; I deducted from the money I received and placed the balance to the credit of the loan.

By Thomas—The certificates were placed to the account of the Governor in the certificate; the word "order" was struck out.

By Redick—I cannot remember when that was done.

By Cunningham—James Sweet did not charge the State anything for expenses in collecting the money

By Tucker—Cannot say how long it was before James Sweet knew anything about the money.

By Redick—The first credit I made of this money was in the certificates of deposit; I left here Saturday afternoon, went to Nebraska City on Sunday to Omaha on Monday, left Omaha Tuesday, left Nebraska City on Wednesday, I got here Thursday noon; cannot swear that I paid a note in Omaha; if I did not pay it our bank account would not show it; I have no basis to go on to show how much money I got at Omaha; the books don't show it; the books show three certificates of deposit for $5,000 each, and $1,400.86 and that is all I accounted for.

By Cunningham—I am not in the habit of going after money for private parties when they pay my expences.

On motion of Hascall the Senate took a recess till 2 p. m.

AFTER RECESS.

John Gillespie sworn:

I am State Auditor; for all funds paid into the State Treasury a duplicate receipt is given; have no official knowledge of the 5 per cent. fund officially.

THE TICHENOR LOAN.

A loan has been made by the commissioners to Tichenor and wife; I wrote the form for the application and made the endorsement on the back of it assenting to the loan; there was at that time no funds on hand; I never as School Commissioner gave my consent to the loan.

Question—Will you then explain the endorsement made upon the back of the application of Tichenor. Objected to. The objection overruled by the Senate.

Ans. I put on this endorsement on the application at the solicitation of Tichenor; I worded it in such a way that he could not get the money on it; the endorsement was that the loan should be made when the outstanding indebtedness of the State was paid; the outstanding indebtedness was never provided for in the meaning in which I intended it; did not know at the time that the loan was made; don't remember having any conversation about the loan with any of the other commissioners.

CONTRACT WITH WARD.

A contract was awarded to Joseph Ward to build the Insane Asylum, the date and terms of which is embraced in the report of Commissioners; an advertisement was published by the commissioners to receive bids at a certain day, and the contract would be awarded to the lowest bidder; Ward was the lowest bidder at $118,000 and some hundred dollars; Gov. Butler was one of the commissioners that signed the contract; the appropriation was $50,000 to build the asylum; it was let at $137,000 and some hundred as set forth in report of commissioners; the basement was built in the fall of '69, and the contract was let for that at about $18,000.

Referring to his books witness stated that up to December 15th, 1869, he had drawn to the amount of $47,000; Ward had previous to that date received the contract for building the superstructure; my books don't show whether the estimates were made upon the superstructure or basement; frequently had conversation with the Governor and the other commissioners when the estimates came in; I have stated to the Governor on several occasions that I thought Ward was drawing too much money; I once went to the Gov. and asked him if Ward had given bonds, and if not, I thought he had drawn too much money, and at another time I protested against his drawing any more till he had given bonds; the Governor said he would give bonds, that would be all right; Governor Butler was building a house at that time; Ward gave bonds signed by three or four names; total amount drawn on the building was $137,355; Ward gave a bond with some names, the Governor was to approve the bond; I don't know whether it was approved or not; it should be deposited with the Secretary of State; had conversation with the Governor and Ward about the bonds; the Governor said he had not given bonds but he would; I expressed my doubts about his ability to give bonds, and he named over some good men, but one or two of these went on the bonds; cannot state when the bonds were given; am not able to state how much money was paid out before the bonds were given.

UNIVERSITY CONTRACT.

The contract was taken by Silver & Son at $152,000. It was entered into by the whole board. The appropriation was $100,000.

SIOUX CITY AND PACIFIC R. R. LANDS.

Application was made by John F. Blair for seventy-five sections of State lands for this road. Blair requested an interview with me as one of the Commissioners, accompanied by J. T. Davis and General Bowen. Governor and Secretary were present. They wanted seventy-five sections of land donated to the Air Line R. R. They said it was consolidated with the S. C. & P. R. R., and asked that the land appropriated might be selected by them. Blair had a selection of lands with him and asked its approval. I did not approve it.—Had another interview; all parties present. Blair again set forth his claims, and urged that the selection be approved. I refused to approve it. My reasons were stated. I thought that it would be unjust to other railroads; that they were valuable. I thought that the lands ought to be classified, and could not give Blair the first choice. I stated that the lands ought to be graded, and that in order to be just, each railroad should have the same chance. The Governor seemed to agree with me. The Governor afterward agreed with me that we ought to pursue that course. I requested the Governor's concurrence, because I wanted to avoid difficulties with other localities. He said he did not think Blair's selection right. I afterwards learned that the patents were issued.—Governor B. asked me why I authorized such a statement in the Omaha papers. He intimated to me that I had published an article in the Lincoln *Statesman*. I said that it was written by A. F. Harvey, and that he was responsible for it, and denied that I had written it.

He stated that he had not patented the lands Blair asked for. He said Blair had received his patents. I said if he had it was an outrage. I asked him to furnish a list to me of the lands, and he said he would. I had obtained a list from the Governor's Private Secretary, and afterwards the Governor brought me down the list of the lands patented.—They were the same lands excepting one section. This section was not State lands, as shown on my map. The purport of the document given by Blair was to show the consolidation of the Air Line R. R. with the S. C. & P. R. R. This was all the evidence we had. Had no conversation with the commissioners about it. It was not discussed. Never discussed the matter with the Commissioners.

THE CHASE WARRANTS.

Two warrants were issued for $1,000 each, February 22d, 1869, No. 1,343 and 1,344, in accordance with an act approved February 6th, 1869, at the solicitation of the Governor. Two accounts were made out, one for 1867 and the other for 1868. I issued the two warrants, and made out the vouchers. The Governor requested me to let him take the warrants and vouchers to Omaha, and leave them with Col. Chase. The vouchers were not signed or returned to my office I had spoken to the Governor about the vouchers and requested him to fix it up. He said that he did not propose to allow Chase the full amount. He stated on another occasion that he intended to have one of the warrants cancelled; this was in 1869; don't remember how long before the special session was called; one of the warrants was afterward cancelled, and returned to me by James Sweet, with an endorsement that it was to be destroyed in my office; the number was 1,344

Cross-examined—The contracts for the University and Asylum were let by the commissioners; previous to December 15th, 1860, the contract had been let for the superstructure of the Asylum; all the warrants were drawn by myself; I helped settle these things and had a voice in the approval of the accounts; don't remember that the Attorney General was called in to decide upon the validity of the consolidation of the Sioux City & Pacific and the Air Line railroads; Butler when he drew the warrants approved but afterwards said he had concluded not to allow.

A difference of opinion sometimes occurs between the commissioners in approving lands; lately Secretary James and I approved a select on of railroad lands against the protest of Gov. Butler.

Champion S. Chase sworn—I reside at Omaha; am a lawyer by profession; was attorney for the State from August 1867, to April, 1869; had a conversation with the Governor during the session of 1869 concerning the amount of my compensation; no sum was named particularly, but a bill was about to be introduced to confer upon me the office of Attorney General until another should be appointed, and another providing for the office of Attorney General, with a salary at $1,000; as it afterward passed, I left supposing that I would be appointed Attorney General under the bill; a week or two after Gov. Butler came to Omaha on his way to Washington, and came to my house to dine; the subject of my pay came up, and he said, "I can let you have $1,000 now, but I wish to use the rest till I return from Washington;" about two months after I received a note from the Governor that he had appointed Seth Robinson Attorney General; in the fore part of the summer, Mr. Wood, Auditor's clerk, came to Omaha and came to my office and presented me with vouchers, or asked me if I had signed any vouchers; he said two vouchers for $1,000 each; I did not answer, but came down and asked Mr. Gillespie how it came that two vouchers had been presented; he said that was the amount the Governor had allowed me as salary; I told him I had received but $1,000; I told him there must be some mistake, that that amount would not be due me; I told him that I would sign a voucher for $1,000, and I did so; I saw the Governor and stated to him that there had been two vouchers drawn for me and that he had better return one of them, and he said he would make it right; I do not know how long the vouchers were drawn before it was cancelled; I think it was about four months after the warrants were drawn before the vouchers were signed.

I gave the Governor authority to draw the warrants and sign my name; I did not know how much he had drawn; nothing particular was said about the amount; I suppose that there was more allowed me; If I had received pay up to the time I got notice that I was superceded, there would have been due me about $650, up to the time the bill was passed there would have been due me $486; it was paid by the Auditor and I signed the order for it

CROSS EXAMINATION.

When the Governor said that he wanted to use the balance of the money in his visit to Washington I understood that he had collected the balance of it; I thought and I think he thought then that I would continue to fill the office of Attorney General; and I afterwards settled with him for all the balance due me up to the time I was suspended.

Thomas F. Hall, sworn:

I had several conversations with the Governor concerning the lease of Saline lands; the first time he gave me to understand that I could have a lease; I selected some land and he said he could not let me have it because it was engaged; afterwards we selected another piece and asked to have a lease of it; he asked me how much I would give for that lease, said it was too much for one man to lease; I said that I would double the royalty; he said that was not what he wanted; said that he had been offered $5,000 for that lease and would not lease it, but to us he would lease it; he said he would give $5,000 for the lease himself if he was not Governor; he told me afterwards that the land had been kept for me and I could have it if I wanted it.

During the campaign the Governor asked me why I did not contradict a statement made by the *Herald*, and I told him that it was not necessary as no one would believe the *Herald's* statement.

CROSS EXAMINATION.

This conversation was not with reference to the land leased by Cahn & Evans, but another piece that was not leased; the Governor did not tell me that after parties had commenced to work on them; it was another piece I think, this piece was between the land leased to Tichenor and some other that had been leased; I cannot swear that the Attorney General was not in the room during the conversation.

C. C. Crowell sworn:

Heard a conversation with Governor Butler concerning the lease of salt lands; the talk was with the Governor and Mr. Hall; we wanted to get a lease; we had to show that we were responsible, and when he was satisfied, he told us to go out and select some lands; we went above Tichenor place and could not find anything to suit us. Finally Mr. Gregory showed us a tract adjoining the town plat and we showed it to the Governor; he said he would like to save that place, in case certain parties who had a lease and were going to bore, might find it necessary to use it to put up evaporators; we made afterward another trip; I think I made three trips from Omaha; the last time we settled on a piece of land that the Governor told us was not leased; he finally asked Hall what he would give for that and Hall said he would double the royalty; the Governor said he had been offered $5,000 and said he would give it; Hall turned to me I don't know whether he said anything or not, and finally asked the Governor if $4,000 would buy it, he said no, and we left soon after; the royalty is the per cent. paid the State in salt; I undersood that the terms were fixed by law.

Cross examined—I do not know whether the sum named was for the State or for himself; the Governor said that he was connected with other parties in regard to a well; he said that he was responsible to two men, it may have been Cahn & Evans, in their losses; the conversation was the last of May or the first of June; I think it was not in April; we went home afterward and I think we came back in July; the Governor showed me on the plat where the brine ran off and how the parties who had leased were located.

Seth Robinson sworn:

Live at Lincoln and am a lawer; was formerly Attorney General; Mr. Tichenor came down to my office; think he brought a note from the Governor or the Private Secretary, directing me to make an abstract of title to the Tichenor block. Recognized the abstract handed him.—Understood that the loan was made as soon as I had drawn the mortgages; it was made upon the papers I drew, after the abstract was made; the abstract was made before I drew up the mortgage; I delivered it to Mr. Brock before I drew up the papers; I had a conversation with the Governor three or four days after I had made out the mortgage. He told me that he instructed Tichenor to get an approval of the Security. I stated to him that I thought the Tichenor loan a little shaky. I think now since a policy of insurance was cancelled, that it may be unsafe. I think policies of insurance make the loan more secure. I simply made out the abstract by direction of the commissioners for the State, by virtue of my office. It was several days after, that the Governor told me he did not wish to make any further loans, without my approval. The mortgages against the property, as shown by the abstract, were to the amount of $5,500. I thought the property worth at least $22,000. The policies of insurance for $12,000 made it better securities.

C. C. Crowell called:

I was running a flour mill and had flour taken over the road; I deemed the road dangerous; trains were not run regularly over the road.

Cross examined—The road from Blair to Fremont was in good condition; the short road I alluded to was between Blair and Desoto; there would not have been much travel on the road from Blair and Desoto

Wm. F. Goodwill sworn:

Reside in Burt county; I know nothing of the condition of the road from Desoto to Blair; I would not consider the portion I saw as safe to travel.

A. J. Cropsey sworn:

The Governor sold me the lots described in article eleven, specification first; I told him I wished to buy the lots; he said he would sell me the lots; we had some conversation, and I finally agreed to take them; I took the title from the State; the price was 2,400 for the whole; my idea was the title was in the State; I got a regular State deed; the amount expressed in the deed was $1,000; we had been in the habit of buying lots and getting deeds directly from the State; I have known property to be sold by the Governor and others often and titles given from the State; it was then usual; I do not recollect that he said anything about how long he had owned them and that they had risen in value; I think the Governor said that he had divided the block and let other parties have it at cost; I had been wanting to buy the half block for some time; I knew that if the property belonged to the State I had no right to buy it of him, and I supposed that it was all right; it was often done, this selling of lots from the commissioner while the title was in the State; he would bid off lots and hold them until he could get a higher price and then sell them, giving a deed from the State; I don't know whether the Governor paid for these lots or not either before or after I bought them of him; I think that they were bid off for $1,000.

T. P. Kennard, sworn.

Have been Secretary of State for two years up to the first of January; I was a member of the Board of Commissioners for sale of lots &c.; I acted as cashier of the board; I know of the lots alluded sold to A. J. Cropsey; the title was conveyed from the State to Mr. Cropsey; Governor Butler sold to Mr. Cropsey, Governor Butler, as one of the Commissioners made the deeds for the State, and to avoid deeding to himself what he purchased left the title in the State, and when he sold the lots would get a deed from the State to the party; it was the practice of the Governor to pay from time to time for all lots he bought; he has paid for all property he bought; all the commissioners were heavy bidders of necessity, as unless they bid the people attending would not have confidence and would not buy; I do not recall just when the Governor paid for these lots, but it was before he sold to Cropsey.

Cross-examined—The money received for lots was used to erect public buildings; no evidence except the sale books was kept of the property bid off by the Governor; no papers passed.

By Senator Thomas—Have you any record to show when the money was paid to the State?

Ans.—It was in June '69 that the lots were sold to the Governor; the Gov. said he would bid $2,000 for Block 51, when we came out to it the crowd was along and I told the auctioneer to cry it, and he put it up and it was bid off at that price; the sale was going on and several blocks were sold before the adjournment; I afterward bought the half of that block from the Governor; I took a title from the State; I think no certificate was issued to the Governor prior to the sale to Cropsey; Governor Butler never bid off a lot at public sale that he did not pay for; all the commissioners bid heavily and bought at the highest price and always paid for the lots they bought.

Adjourned.

March 21, 1871.

A. N. Kellogg, sworn:

I am private Secretary of the Governor and am custodian of the records of the sales of lots and lands.

[The books and records of the lot sales were then produced.]

Have been Private Secretary since the 23d of July, 1869; have had custody of part of the sale books since winter of '69 and '70; have attended all the sales; have only kept the record of the last two; did not keep the records when block 151 was sold.

Wm. F. Holmes, sworn:

Reside at Lincoln; am not engaged in any business; have dealt in land; am acquainted with the topography of Lincoln; block 151 consists of 12 lots; I never heard it offered for sale, have not been present at all the sales; was present at the June sales in 1869; did not hear any of the lots in block 151 offered for sale; they were not sold to my knowledge.

Cross-examined—No lots that I know of were sold in the absence of the main crowd; I tried to keep up; I have known lots to be sold before all the crowd got up; don't think these lots could have been sold without my knowledge.

T. P. Kennard, re called:

These books are the records of the sales of lots and lands in Lincoln.

[Showed the entry made of the lots in block 151 at the time of the sale.]

The entry is not that made on the field: Col. Patrick was clerk of the sale; I afterwards bought half of the block of Gov. Butler, and charged the lots I bought to my name.

The manner of the sale, was, I had bought half of block 153, and as we drove along to block 151, the Governor asked how much the half block had brought; I told him about $2,000; he said he would give that; I told the auctioneer to cry it off, and he did so; there was no understanding that the Governor should have it at that price; he wanted to buy the block; the entry was made immediately; I think in the field book; in the field book the entries were made as we went along; the sales were afterwards transferred to the tract books; the records of the sale were alone in the field book for a time; the sale books of '69 were nearly a year the record; the charge in the sale book was made quite a while after the sale; I should think three or four months; could not say whether the Governor paid for the lots on the date of sale: all the property was reckoned by the numbers; the Governor, the Auditor and myself were authorized to receive the money, and when lots were bid off by us we considered the money received by us, and I as collector called upon the others as we needed the money; the Gov. paid from time sums of money that were credited by me on his lots; the Governor bid off $12,000 to $15,000 at the first sale; the next was in September; don't remember how many lots the Governor bid off; the next sale was in June following; don't know how many lots the Governor bid off; I should think that he bid off as many as 50 lots in all, perhaps more; paid for all his property the in same way as for these, I kept an account of the Governor's sales in my private book; all the commissioners were under bonds and were custodians of the funds by law, there is no public record of the sums paid from time to time by the Governor for his lots; the duties of the commissioners were all performed in conjunction, excepting the depositing of the money and keeping accounts of The State Treasurer; the other members of the board sometimes collected money, I took and deposited it in the treasury; part of the books were kept in my office and part in the Governor's; don't know that it is the particular duty of any member of the board to make entries; I frequently when requested to make deeds to third parties from the State looked to see if the money had been paid by the first purchaser; Governor Butler's account was kept in a memorandum book.

Cross-examined—The auctioneer usually stood up in the carriage in selling lots, and frequently sold lots as we were driving across; we had just sold in the block adjoining and where these lots were bid off; the crowd was near the carriage and I think the auctioneer was standing up; one block adjoining block 151 sold for $2,100, and another for $1,800; I never took a receipt from the Treasurer when I deposited the State moneys with him belonging to the building fund; he never issued duplicate receipts; the Governor and the other commissioners agreed to bid largely on lots to give confidence to the town. We frequently turned over our lots to other parties at cost; I think the whole scheme would have failed had not we bid; there never was any understanding between the commissioners not to bid against each other; it was the practice do so.

Question by Senator Hascall—Did you or did you not after the sale of lots publish lists purporting to show the number of the lots sold, the purchasers and the price?

Ans.—We did not.

By Senator Hascall—I did not make the entries and cannot tell why the lots were marked at different prices.

Col. Patrick told me that he had also made a trade with Governor Butler for some of these lots and afterward the trade fell through and he made the erasure of his name and put Gov. Butler's in its place.

By Senator Thomas—My name is in my own handwriting; I don't know in whose Gov. Butler's name is; the entry of the sale book showing that Governor Butler had bought block 151, looks as though there might have been some other name written and erased, but I don't know whether it is a fact or whose name if any; I never looked over the newspaper record of the sales and cannot tell whether the sale of block 151 was published or not; the certificate of sales were generally made when the deeds were called for; the tract book is made up from the deed record, the sale books were always regarded by the commissioners as memorandum books; I know mistakes were made on the field in the field books in names, and often changes would be made on the return on account of arrangements made by buyers, by which these were necessary.

John Gillespie, re-called;

Never had any conversation with Governor Butler, as to what he would ask for leases of Saline lands.

Question—Had any conversation in regard to what he expected to make out of leases of sallnes lands then in existence or thereafter to be made, if so what was it Objected to objection overruled.

Ans.—I had a conversation with the Governor regarding what he expected to make out of an appropriation of land recommended in his message; he said he was bound up and asked me not to oppose the appropriation.

The Secretary was the financl member of the board; I was present at the sales in June; the commissioner traveled together part of the time and part of the time were in separate carriages; I was the purchaser of the south half of block 153; think I was on foot; I was along in the vicinity of the carriage; the carriage generally contained the commissioners, the Auditor and the clerk; can not say who was in it at the time; I was with the crowd as they passed from one block to the other; the crowd bid upon the ground and the Auctioneer put up the different lots; the custom was to wait till the crowd came up; I have no knowledge of block 150, being offered for sale; if the block was sold I think I should have known something of it; I don't remember that there was any halt at that block, did not look at the records till some time afterwards.

CROSS EXAMINATION.

It sometimes happened that lots were sold before all the crowd got up; I could not say just where I was; I can't remember the circumstances; I testify that I had no knowledge of the sale of that block; I do not think that any conversation passed between the Governor and myself that he was held responsible for the fourth part of the expenses of Evans & Cahn, he stating that he had to become responsible in order to get them to develop it; if block 151 had been sold lot by lot I should have known, it would take so long; I don't remember any pause and don't remember hearing the auctioneer.

By Thomas—Don't know that the Governor was interested with Cahn & Evans.

By Kennedy—I understand that the Governor was to have an interest in the lands.

By Thomas—I can see in the book that opposite lot 7, in block 151, the Governor's name is written and my name appears to have been erased; Col. Cropsy asked me if I did not own lots 7, 8 and 9, in block 151; I found by examination that I had not purchased these lots; he left me and I went into the capitol and went into the Secretary's office, and found the north half of the block was marked to Kennard, lots 7, 8 and 9 to me, and the other three to J. R. Patrick; I afterwards found that my name was erased and the Govetnor's written in; the handwriting of Gov. Butler's name is, as it looks to me, that of the Private Secretary's; Kennard's is in his own writing.

By Senator Tucker—The appropriation of lands spoken of by Governor Butler to you was never made; the commissioners generally waited till the crowd got up, and generally waited for commissioners; lots have in some instances been sold without stopping the carriage; where parties desired it they were allowed to bid on a lot with the privilege of taking other lots at the same rate, but this was not a general rule.

By Estabrook—That block I should think might have been worth $800 per lot.

A. W. Kellogg, recalled:

Heard a part of Gillespie's evidence; the entry of Governor Butler's name is in my handwriting; I found that the lots were "dittoed" under Kennard's name at the top; I do not think I made any erasures of Gillespie's name; the Secretary told me that those three lots were sold to the Governor; the Governor did not direct me to make the change.

John Gillespie, re-called:

By Senator Tucker—*My* impression is that the bidding of the commissioners resulted advantageously to the State; I think it made a difference of a number of thousand dollars, possibly fifty or sixty thousand.

Adjourned till 2 o'clock.

AFTER RECESS.

The managers stated that they had presented their case, and rested.

Mr. Briggs, counsel for the respondent, opened the defence.

He called attention to the course of the respondent, who, knowing that the Legislature were sitting beyond the time of the regular session, had not as has invariably been the custom in similar cases, asked for time to prepare his defence, but announced himself ready for immediate trial, while many dilatory motions and appeals for a continuance had been made by the prosecution.

In reference to article first, the defence, if it had not already been shown by the prosecution, will prove that the 5 per cent. school fund was procured to be paid from the United States government, by the respondent in accordance with the law, was deposited in the treasury, and that he afterwards, by the advice and consent of the Treasurer, borrowed the money, and that it was agreed that the Treasurer should draw up mortgages upon real estate belonging to the respondent, and that, though through the neglect of both parties some time had elapsed before the mortgages were drawn and recorded, the security is ample and unincumbered by any prior or adverse claims.

He reviewed such articles as evidence had been brought to bear upon by the managers; sketched the history of the enterprise of locating the Capital, selling the lots and putting up costly State buildings without a dollar of expense to the people, and said that in place of this effort to impeach and disgrace him he ought to be the subject of an ovation.

Mr. Redick offered as evidence, mortgages given to the State by the Governor, to secure the loan of $16,000 from the school fund, claimed by the managers to have never been deposited in the treasury. Objected to, and the objection overruled by the Senate, and the mortgages admitted.

J. R. Patrick, sworn:

Was present when block 151 was sold to the Governor; block 153 had just been sold; as we were riding along in the carriage the Governor asked Kennard how much block 151 brought; Kennard said Governor Butler said he would give it; Kennard said to the auctioneer, "Cry it off," and the auctioneer did so, standing up in the carriage; several other carriages were alongside, and the auctioneer cried to the lot two or three times and struck it off to the Governor; I considered it a fair sale; afterwards the Governor told me that he would let Gillespie have three of those lots, and I wrote Gillespie's name on the sale book; some time after by direction of the Governor I erased Gillespie's name and inserted the Governor's again; many lots were sold moving along in the carriages, and several whole blocks were sold at a time at that sale, some in the addition and others that I do not remember.

G. W. Collins sworn:

Am a lawyer and real estate agent and reside in Pawnee City. Taking the mortgages the witness stated that lands in the vicinity of first mortgage on 160 acres in Pawnee county are worth $6 and $7 per acre.

Tract number 2, 160 acres $6 and $7 per acre.

Number 3, 160 acres, worth $5 per acre.

Number 4, 80 acres, worth $100 per acre.

Number 5, 80 acres, worth $50 per acre.

Number 6, 160 acres, worth $6 per acre.

Number 7, 160 acres, worth $5 per acre.

Number 8, 160 acres, worth $6 per acre.

Number 9, 160 acres, worth $6 per acre.

Number 10, 80 acres, worth $30 per acre.

Number 11, 160 acres, worth $5.50 acre.

Number 12, 160 acres, worth $6 per acre.

Number 13, 160 acres, worth $6 per acre.

Number 14, 160 acres, worth $6 per acre.

Number 15, 160 acres, worth $7 per acre.

Number 16, 80 acres, worth $35 per acre.

Number 17, 160 acres, worth $35 per acre.

I have put this value upon the land, not at the price lands are held in that vicinity, but what it will sell for in cash; I have a general knowledge of lands in this vicinity; these lands were on the books of Collins & Babcock, the firm of which I am a partner; I have personally examined all these lands; we took them off the books by order of the Governor when the mortgages were sent down by him to be recorded; I would be willing as a loan agent to take the value of these lands at the price I have put upon them; the $6 lands lie from 5 to 9 miles from the town of Pawnee; think they do not lie in a densely populated community; our county is 18X24 miles and has a population of over 4,000; I have lands in my hands from Mr. Cropsey, they are held from $7 to $10 per acre; most of his lands are surrounded by a young hedge; we sold a piece for Mr. Cropsey about a year ago; don't remember what we got for it; it was not in the immediate vicinity of any of these lands described; lands are sold 5 or 6 miles from Pawnee at $6 per acre; think it would sell on execution at what it is worth.

D. R. Dungan sworn:

Reside in Pawnee City; am not familiar with the lands described in the mortgages; know of the value of lands from 5 to 9 miles from Pawnee City; I estimate the value of such lands at from 5 to 20 dollars per acre; I got my knowledge from sales made of lands coming under my observation; the 80 acres adjoining Pawnee City I think would bring if put up at sale $75 per acre; the land valued by Mr. Collins at $50 per acre, I think would sell for 40 dollars per acre.

[Concluded on fourth page.]

Legal Notice.

J. F. Terreberrie, vs. H. E. Hills } In the Dist Court 2d Judicial District, Nebraska, Cass County.

NOTICE is hereby given to the said H. E. Hills, that a petition has been filed in above entitled cause by the said plaintiff, in the District Court, 2d Judicial District, within and for Cass County, Nebraska, that a certain Deed of Mortgage or Trust on the following Real Estate situated in said county of Cass, to wit: the NE quarter of section 28, T 11 R 13 East, 6 p m, duly executed and delivered by R. R. Davis to H. E. Hills, July 30th A. D. 1868, and filed for record in the Clerk's office of Cass County, Nebraska, July 30th A. D. 1868, and recorded in book "D," page 100, which still remains of record, be delivered up and the same cancelled of record, and the said H. E. Hills is required to answer or demur to said petition on or before the 1st day of April A. D. 1871.

FOX & WHEELER, Attys. for Plaintiff.

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Legal Notice.